

This Page Is Inserted by IFW Operations  
and is not a part of the Official Record

## **BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning documents *will not* correct images,  
please do not report the images to the  
Image Problem Mailbox.**

**DECLARATION AND POWER OF ATTORNEY**

We, Keith E. Jasperson, Thomas J. Valine and Frederic J. R. Wahlquist, declare that

- (1) Our respective residences, citizenships and addresses are as stated below.
- (2) We have reviewed and understand the contents of the specification identified below, including the claims as amended by any amendment specifically referred to herein.
- (3) We believe that we are the original, first and joint inventors of the subject matter which is claimed (the "Application") and for which a patent is sought on the invention described in the specification entitled:

**DRUG INFUSION SYSTEM PROGRAMMABLE IN FLEX MODE**

Filing Date: October 22, 2002	Amended on:
Serial No.: 10/278,769	Confirmation No.: unknown

(4) We acknowledge our duty to disclose to the United States Patent and Trademark Office all information known to us to be material to the patentability as defined in Title 37, Code of Federal Regulations, §1.56 (attached hereto as Appendix A).

(5) We hereby claim foreign priority benefits under Title 35, United States Code, §§119 and 365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign applications for patent or inventor's certificate having a filing date before that of the Application on the basis of which priority is claimed:

Foreign Applications, If Any, Claiming Priority Under 35 USC § 119			
Country	Application Number	Date Of Filing (D/M/Y)	Date Of Issue (D/M/Y)
All Foreign Applications, If Any, Filed Before The Priority Application(S)			
Country	Application Number	Date Of Filing (D/M/Y)	Date Of Issue (D/M/Y)

(6) We hereby claim the benefit under Title 35, United States Code, §§ 120 and 365 of any United States and PCT international application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States applications in the manner provided by the first paragraph of Title 35, United States Code, § 112, we acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) that occurred between the filing date of the prior applications and the national or PCT international filing date of this application:

U.S Application Number	Date Of Filing (D/M/Y)	Status (Patented, Pending, Abandoned)

(7) We hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

U.S Provisional Application Number(s)	Date Of Filing (D/M/Y)

(8) We hereby appoint the following attorneys and/or patent agents to prosecute this application and to transact all business in the Patent and Trademark Office:

Harold R. Patton	Reg. No. 22,157	Daniel W. Latham	Reg. No. 30,401
Thomas G. Berry	Reg. No. 31,736	Stephen W. Bauer	Reg. No. 32,192
Curtis D. Kinghorn	Reg. No. 33,926	Kenneth J. Collier	Reg. No. 34,982
Eric R. Waldkoetter	Reg. No. 36,713	Girma Wolde-Michael	Reg. No. 36,724
Thomas F. Woods	Reg. No. 36,726	Michael Soldner	Reg. No. 41,455
Michael Soldner	Reg. No. 41,455	John W. Albrecht	Reg. No. 40,481
Paul H. McDowall	Reg. No. 34,873	E. Lacy Belden	Reg. No. 50,751
William D. Bauer	Reg. No. 28,052	Michael L. Mau	Reg. No. 30,087
David R. Cleveland	Reg. No. 29,524	Robin A. Sannes	Reg. No. 45,070

with full powers (including the powers of appointment, substitution, and revocation) to prosecute the Application and any division, continuation, continuation-in-part, reexamination, or reissue thereof, and to transact all business in the Patent and Trademark Office connected therewith.

(9) We hereby authorize them to act and rely on instructions from and communicate directly with the person/assignee/attorney/firm/organization who/which first sends/sent this case to them and by whom/which we hereby declare that we have consented after full disclosure to be represented unless/until we instruct IPLM Group P.A., to the contrary.

(10) Please direct all correspondence in this case to the following attorney:


Attention: William D. Bauer  
IPLM Group, P.A.  
P.O. Box 18455  
Minneapolis, MN 55418  
612-331-7400 telephone  
612-331-7401 facsimile

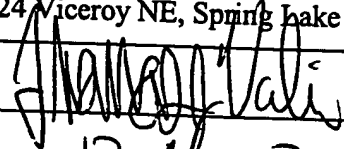
Customer No. 23322

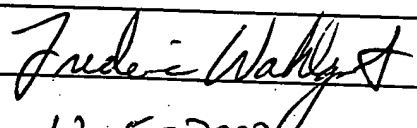


(11) We also declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the Application or any patent issuing thereon.

(12) Wherefore, we pray for grant of Letters Patent for the invention or discovery described and claimed in the Application, and we hereby subscribe our names to the Application, and to this Declaration, Power of Attorney and Petition, on the date set forth below.

Full Name:	Keith E. Jasperson
Citizenship:	UNITED STATES
Mailing Address:	13993 Magnolia Street, Andover, Minnesota (MN) 55304
Signature:	
Date:	3 DECEMBER 2002

Full Name:	Thomas J. Valine
Citizenship:	United States
Mailing Address:	924 Viceroy NE, Spring Lake Park, Minnesota (MN) 55432
Signature:	
Date:	12-4-02

Full Name:	Frederic J. R. Wahlquist
Citizenship:	United States
Mailing Address:	11117 Xylon Avenue North, Champlin Minnesota (MN) 55316
Signature:	
Date:	12-5-2002

*Appendix A*

§ 1.56 Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

- (1) Prior art cited in search reports of a foreign patent office in a counterpart application, and
- (2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

- (1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or
- (2) It refutes, or is inconsistent with, a position the applicant takes in:
  - (i) Opposing an argument of unpatentability relied on by the Office, or
  - (ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) Each inventor named in the application;
- (2) Each attorney or agent who prepares or prosecutes the application; and
- (3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Keith E. Jasperson et al.	Examiner:	unknown
Serial No.:	unknown	Group Art Unit:	unknown
Filed:	Even Date Herewith	Confirmation No.:	unknown
Docket No.:	151P9958US02		
Title:	METHOD OF DELIVERING A FLUID MEDICATION TO A PATIENT IN FLEX MODE		

---

COVER LETTER FOR DECLARATION

MS: Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

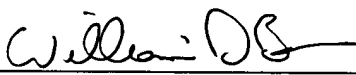
The enclosed copy of the Declaration was executed for the previously filed application Serial No. 10/278,769 but is being submitted as a copy for the Divisional application filed herewith.

In addition, the specification and drawings submitted for the Divisional application do not contain any subject matter that would have been new matter in the previous application.

Respectfully submitted,

KEITH E. JASPERSON ET AL.

March 25, 2004

By:   
William D. Bauer  
Reg. No.: 28,052  
IPLM Group, P.A.  
Post Office Box 18455  
Minneapolis, MN 55418  
Telephone (612) 331-7405

WDB:nr